

Notice of Allowability	Application No. 10/622,264	Applicant(s) CADIEU, FRED J.
	Examiner Richard Bueker	Art Unit 1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to applicant's agreement to the attached Examiner's Amendment.
2. The allowed claim(s) is/are 23-35.
3. The drawings filed on 17 July 2003 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 7/17/03
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

Richard Bueker
Richard Bueker
Primary Examiner
Art Unit: 1763

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22, drawn to a laser ablation method and apparatus utilizing a confinement magnet and a tapered pulsed coil, classified in class 427, subclass 468.
- II. Claims 23-35, drawn to a method and apparatus for keeping a laser entry window clean during a laser ablation procedure, by utilizing radioactivity, classified in class 427, subclass 475.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed, because in the combination, the step of ablating a target with a laser does not require the particulars of the subcombination such as using radioactivity to keep the laser entry window clean during the step of laser ablating the target. The subcombination has separate utility such as in a laser ablation method and apparatus that does not utilize a confinement magnet and a tapered pulsed coil. Thus, two-way distinctness exists between the two groups of claims, because Group I requires a confinement magnet and a tapered pulsed coil while Group II does not, and Group II requires a pair of radioactive members, while Group I does not.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Ellis on July 9, 2004, a provisional election was made without traverse to prosecute the invention of Group II, claims 23-35. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-22 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Ellis on July 9, 2004.

The application has been amended as follows:

In claim 23, line 3, after "comprising:", the following phrase has been inserted: "a laser entry window; a laser ablation target that is positioned relative to said laser entry window such that the target can be ablated by a laser beam entering the deposition chamber through said laser entry window;".

In claim 23, line 8, "the" has been inserted before "first members".

In claim 23, line 13, the phrase "as a result" has been deleted and replaced by "by the radioactivity".

In claim 31, line 11, the phrase "as a result of the influence" has been deleted and replaced by "by the radioactivity".

Non-elected claims 1-22 have been cancelled.

The following is an examiner's statement of reasons for allowance: the prior art of record does not disclose or make obvious an apparatus or method for maintaining the cleanliness of a deposition chamber laser entry window wherein a pair of first members are disposed between the laser entry window and the target and a pair of radioactive members disposed in the space between the pair of first members, and wherein the first members are operatively connected to a voltage source and ground in the manner claimed in claims 23-35.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Bueker whose telephone number is (571) 272-1431. The examiner can normally be reached on 9 AM - 5:30 PM, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Mills can be reached on (571) 272-1439. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard Bueker
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